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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,574	04/15/2004	Kurt Brooks Uhlir	N0189US	8870

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EXAMINER	
HU, KANG	

ART UNIT	PAPER NUMBER
3714	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/825,574	UHLIR ET AL.	
	Examiner	Art Unit	
	Kang Hu	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *12 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The amendments to the claims and specification along with the arguments have been entered on March 12, 2007.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-9, 15, 16, 18, 19, 21, 23-26, 28-31 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Fry (US 6,463,385).

Re claim 1: Fry discloses a method for facilitating performance by a participant in an event that includes movement along a course (see abstract; col 7, line 57), the method comprising: monitoring a first performance by a first participant in a first event (col 1, lines 23-29); accessing a geographic database (abstract; col 2, lines 17-42; col 5, lines 18-26) that includes data that represents features in a first geographic area; using the geographic database to match the first performance to a first course located in the first geographic area to provide course data; comparing the first performance of the first participant to a second performance based, at least in part, upon the first course data; and providing an indication of the comparing to the first participant (abstract; col 1, lines 50-65; col 3, lines 52-65; col 7, lines 1-11, lines 35-45, lines 54-67).

Fry further discloses

Re claim 2: the method of claim 1, wherein the event is one selected from a group consisting of: running, bicycling, a road rally, a triathlon, a soap box derby, a dog sled race, cross-country skiing, sledding, a roller blade race, race walking, rowing, a steeplechase street luge, adventure racing, snow boarding, rock climbing, and extreme runs (col 2, lines 45-58; col 8, lines 1-15).

Re claim 4: the method of claim 1, wherein the first participant physically moves along the first course (col 2, lines 45-58).

Re claim 5: the method of claim 4, determining positions of the first participant during the first performance (col 2, lines 45-67; col 3, lines 1-30).

Re claim 6: the method of claim 5 wherein the positions of the first participant are determined using a first positioning device (fig 1; col 2, lines 45-67; col 3, lines 1-30).

Re claim 7: the method of claim 6 wherein the first positioning device is selected from a group consisting of: a Global Positioning System unit, a Differential Global Positioning unit, cell phone positioning technology that uses triangulation, cell phone positioning technology that uses time-of-arrival, cell phone positioning technology that uses direction-of arrival, and beacons (col 2, lines 45-67; col 3, lines 1-30; col 8, lines 42-50).

Re claim 8: the method of claim 5 wherein the positions of the first participant are transmitted as data wirelessly from a first communications device located with the first participant (col 7, lines 45-55).

Re claim 9: the method of claim 1 wherein the second performance is by a second participant (col 7, lines 38-42, lines 55-67; col 8, lines 1-5).

Re claim 15: the method of claim 9 wherein the second performance is along the first course, but occurred at a previous time (col 1, lines 50-67; col 7, lines 55-65).

Re claim 16: the method of claim 1 wherein the second performance is by the first participant along the first course, but occurred at a previous time (col 7, lines 55-65).

Re claim 18: the method of claim 1 wherein the indication is provided to the first participant during the event (col 1, lines 50-65; col 2, col 7, lines 55-60).

Re claim 19: the indication is provided to the first participant during the event via a wireless communications device (col 7, lines 50-55).

Re claim 21: Fry discloses a system comprising a monitoring means that monitors a first user's performance in an event that involves movement along a first course (see abstract; col 7, line 57) and provides an output indicative thereof; a geographic database (abstract; col 2, lines 17-42; col 5, lines 18-26) that includes data that represents features in a first

geographic area that includes the first course; and a competition comparison and equivalency program that receives the output from the monitoring means, matches the first user's performance to the first course to provide first course data, and provides the first user with an indication that compares the first user's performance to a second performance based, at least in part, upon the first course data (abstract; col 1, lines 50-65).

Re claim 23: Fry further discloses the first user's performance is monitored by a positioning unit that determines positions of the first user in the first geographic area while the first user is moving along the first course in the first geographic area (abstract; col 2, lines 45-50).

Re claim 24: A computer-readable medium having executable instructions stored thereon in accordance with the method of Claim 1 (col 1, lines 50-67; col 2, lines 1-15; col 3, lines 1-30; col 5, lines 18-32).

Re claim 25: An apparatus having executable instructions stored thereon in accordance with the method of Claim 1 (col 1, lines 50-67; col 2, lines 1-15; col 3, lines 1-30; col 5, lines 18-32).

Re claim 26: The method of Claim 1 wherein accessing a geographic database that includes data that represents features in a first geographic area further comprises:

accessing data that represents features suitable for navigation in the first geographic area (abstract, col 3, lines 5-15; col 7, lines 1-35).

Re claim 28: The method of Claim 1 wherein the first course data comprise one or more selected from a group of geographic coordinates associated with positions, latitude coordinates associated with positions, longitude coordinates associated with positions, street names associated with roads, roads, associations between roads, landmarks, addresses ranges, walkways, pedestrian paths, bicycle paths, hiking rails, jogging rails, waterways, point of interest, bodies of water, mountain ranges, surface types, land cover, length, elevation, direction, wind direction, temperature, humidity, changes in lengths, changes in elevations, changes in directions, changes in surfaces, changes in wind directions, changes in temperatures, and changes in humidity, in the first course (col 2, lines 45-67; col 3, lines 15-30; col 4, lines 37-60).

Re claim 29: The system of Claim 21 wherein the first course data comprise one or more selected from a group of geographic coordinates associated with positions, latitude coordinates associated with positions, longitude coordinates associated with positions, street names associated with roads, roads, associations between roads, landmarks, addresses ranges, walkways, pedestrian paths, bicycle paths, hiking rails, jogging rails, waterways, point of interest, bodies of water, mountain ranges, surface types, land cover, length, elevation, direction, wind direction, temperature, humidity, changes in lengths, changes in elevations, changes in directions, changes in surfaces, changes in wind

directions, changes in temperatures, and changes in humidity, in the first course (fry: col 2, lines 45-67; col 3, lines 15-30; col 4, lines 37-60).

Re claim 30: An apparatus comprising: a monitor device that monitors a first performance by a participant in an event that includes movement along a course to provide a first performance output; a memory having a second performance output and a geographic database with data that represents features in a geographic area where the course is located; and an application operably coupled to the monitoring device and memory, wherein the application receives the first performance output, accesses data that represents at least a portion of the geographic area from the geographic database, matches the first performance output to the course from data of the geographic database to provide course data, and compares the first performance output to the second performance output to provide a comparison output, based, at least in part, upon the course data can be broadly interpreted as first person performing on a course, transmitting the performance information to the website, and a second person performing on a course, storing the information on the memory on the bike, then either wirelessly or physically transferring that information along with the first performance data onto the computer and comparing their results (Fry, col 7, lines 35-67).

Re claim 31: The apparatus of Claim 30 further comprising: a user interface operably coupled to the application, wherein the user interface provides the comparison between the first performance output and the second performance output to the participant (an

internet website with the application to illustrate the performance output to their respective user) (Fry col 7, lines 35-67).

Re claim 33: The apparatus of Claim 30, wherein the monitor device further comprises: a positioning unit that determines a plurality of positions of the participant in the geographic area while the participant is moving along the course, wherein the first performance output is based, at least in part, upon the plurality of positions (Fry col 7, lines 35-67).

Re claim 34: The apparatus of Claim 30, wherein the geographic database comprises data that represents features suitable for navigation in the geographic area (Fry: abstract, col 3, lines 1-35; col 7, lines 1-67).

Re claim 35: The system of Claim 30 wherein the course data comprise one or more selected from a group of geographic coordinates associated with positions, latitude coordinates associated with positions, longitude coordinates associated with positions, street names associated with roads, roads, associations between roads, landmarks, addresses ranges, walkways, pedestrian paths, bicycle paths, hiking mils, jogging rails, waterways, point of interest, bodies of water, mountain ranges, surface types, land cover, length, elevation, direction, wind direction, temperature, humidity, changes in lengths, changes in elevations, changes in directions, changes in surfaces, changes in wind directions, changes in temperatures, and changes in humidity, in the first course (fry: col 2, lines 45-67; col 3, lines 15-30; col 4, lines 37-60).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 3, 10-14, 17, 20, 22, 27 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fry in view of Khosla (US 6,080,063). The teachings of Fry have been discussed above.

Re claim 27: fry teaches the geographic database comprises data that represents features suitable for navigation in the first geographic (fry: abstract, col 3, lines 5-15; col 7, lines 1-35).

However Fry did not teach that the first participant is stationary relative to the first course and the movement along the course is simulated (claim 3).

Fry further did not teach:

Re claim 10- 14: the method of claim 9 wherein the second performance is along a second course located in a second geographic area, which is different from the first geographic area. The method of claim 10 further comprising determining positions of the second participant during the second performance. The method of claim 11 wherein the positions of the second participant are determined using a second positioning device. The

method of claim 12 wherein the second positioning device is selected from a group consisting of: a Global Positioning System unit, a Differential Global Positioning System unit, cell phone positioning technology that uses triangulation, cell phone positioning technology that uses time-of-arrival, cell phone positioning technology that uses direction-of arrival, and beacons. The method of claim 11 wherein the positions of the second participant are transmitted as data wirelessly from a second communications device located with the second participant.

Re claim 17: the method of claim 1 wherein the second performance is along a second course located in a second geographic area, which is different from the first geographic area, and further wherein the second performance is by the first participant, but occurred at a previous time.

Re claim 20: the method of claim 1 wherein the first participant is stationary relative to the first course and the movement along the course is simulated by a machine operably connected to a program that compares the first performance to the second performance and provides the indication to the first participant.

Re claim 22: the system of claim 21 wherein the first user's performance is monitored by a stationary machine that simulates movement along the first course.

Re claim 32: the apparatus of Claim 30, wherein the monitor device further comprises: a stationary machine that simulates movement along the course.

Khosla teaches the following:

Re claim 3 and 32: the first participant is stationary relative to the first course and the movement along the first course is simulated (abstract; col 2, lines 27-37).

Re claim 10: the second performance is along a second course located in a second geographic area, which is different from the first geographic area (col 2, lines 27-37; col 6, lines 12-33).

Re claim 11: determining positions of the second participant during the second performance (col 3, lines 59-67; col 4, lines 1-22).

Re claim 12: the positions of the second participant are determined using a second positioning device (col 3, lines 59-67; col 4, lines 1-22).

Re claim 13: the second positioning device is selected from a group consisting of: a Global Positioning System unit, a Differential Global Positioning System unit, cell phone positioning technology that uses triangulation, cell phone positioning technology that uses time-of-arrival, cell phone positioning technology that uses direction-of arrival, and beacons (col 3, lines 59-67; col 4, lines 1-22).

Re claim 14: the positions of the second participant are transmitted as data wirelessly from a second communications device located with the second participant (col 3, lines 59-67; col 4, lines 1-22; fig 2).

Re claim 17: the second performance is along a second course located in a second geographic area, which is different from the first geographic area, and further wherein the second performance is by the first participant, but occurred at a previous time (col 6, lines 50-67; col 7, lines 1-3, lines 25-37).

Re claim 20: the first participant is stationary relative to the first course and the movement along the course is simulated by a machine connected directly to a program that compares the first performance the second performance and provides the indication to the first participant (col 7, lines 47-65; col 8, lines 30-38).

Re claim 22: the first user's performance is monitored by a stationary machine that simulates movement along the first course (abstract).

Therefore in view of Khosla, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a simulated machine to interact with real live events in a different geographical location by different participants to make it more enjoyable, more convenient, and more practical.

Response to Arguments

6. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant's arguments filed 3/12/2007 have been fully considered but they are not persuasive. Re applicant's argument that Fry does not specifically teach the use of geographic database in claims 1 and 21, the examiner disagrees. Database is a comprehensive collection of related data organized for convenient access (Unabridged Dictionary), in this case geographical comprehensive collection of related data which is clearly shown in Fry in the abstract, "stored geographical and sensor parameters may be downloaded to an external personal computer so that the data collected during a workout may be reviewed and analyzed on the screen of the PC." Also throughout fry's specification in col 1, lines 50-65; col 2, lines 25-42; col 3, lines 15-30 along with other areas cited by the examiner clearly shows the same. In regards to the argument provided in regards to the 103 rejections in claims 3, 10-14, 17, 20 and 22, again the database argument is provided in the above section. Further in response to the argument fry mentions nothing about using map data that may already have information needed for comparing performances, examiner has cited col 1, lines 50-67; col 7, lines 35-67 which teaches of the using map data already stored to compare performances.

7. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Khosla teaches of a simulating invention for participation in a live event, allowing remote participants to effectively compete with the real participants in the live event, potentially millions of remote participants can compete in a single simulation of a live event for the highest overall score (summary, Khosla) to make the game more enjoyable, more convenient and more practical.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kang Hu whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KH/
Kang Hu
May 30, 2007

Robert E Pezzuto
Supervisory Patent Examiner
Art Unit 3714